

# IOWA BenchPress



Newsletter of the Iowa Judicial Branch

September-October 2001



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# Annual Enrollment and Change Period October 5 through November 5

By Bill Snyder, Director of Human Resources

**T**he annual enrollment and change period for the 2002 benefits plan year is from October 5, 2001 through November 5, 2001. During this period you may enroll in any medical plan that services the county where you live or work. The following plans are available to Judicial Branch Staff:

Wellmark Program 3 Plus  
Wellmark Iowa Select  
Wellmark Blue Advantage  
Coventry Open Access  
Coventry Primary Care  
John Deere Health Plan  
Secure Care of Iowa  
UnitedHealthcare

One feature of this year's enrollment and change period is an "open enrollment" for Delta Dental. If you are not currently enrolled in Delta Dental, you may now enroll for 2002. If you have a single plan, you may change to a family plan and enroll your spouse and dependents without a qualifying event. If you have a family plan you may add additional family members without a qualifying event. Open enrollment periods for Delta Dental happen infrequently so if you pass up this opportunity, it will be several years before you have another.

Another feature offered this year is a cash incentive for persons with single or double spouse coverage to move from Program 3 Plus to Iowa Select. If you are a full-time single employee and you choose to move from Program 3 Plus to Iowa Select, you will receive a cash payment of \$12.93 a month. If you are a full-time double spouse enrollee and move from Program 3 Plus to Iowa Select you will receive a cash payment of \$30.23. Part-time singles will receive \$6.46 a month and part-time double spouse enrollees will receive \$15.12 a month. If you are in a family plan, no incentive is offered because you will receive the full amount of the reduced premium savings in your reduced cost of a family policy.

Unfortunately, due to state budget cuts, the Department of Personnel is not able to provide every employee with an Employee Benefits Handbook. However, the handbook is available on the web site of the Iowa Department of Personnel at: [www.state.ia.us/idop/BenefitsHome.html](http://www.state.ia.us/idop/BenefitsHome.html). (Click here if you have internet access) The Employee Benefits Handbook will also be available on the Benefits Bulletin Board in Lotus Notes for those who do not have internet access.

January 2, 2002 will also bring significant changes in the Deferred Compensation Program courtesy of federal statutory changes. The maximum amount you can defer increases to 100% of your income up to a maximum of \$11,000. The statutes now provide that this amount will increase annually over the next several years. A new provision allows individuals who are over age 50 to defer up to \$12,000 a year. The "three-year catch-up" provisions for persons nearing retirement have also been changed and will allow up to \$22,000 to be deferred during 2002. Other statutory changes make rollovers to other tax deferred accounts much easier than they have been in the past. Additional information is available on the Department of Personnel's web site listed above.

For further information and enrollment forms, contact your Finance and Personnel Manager.

The *Iowa Bench Press* is published bimonthly by the State Court Administrator's Office to keep court personnel informed about court policy, projects, programs, and activities. Articles express the views of the authors or the editor and not necessarily those of the Iowa Judicial Branch.

The *Iowa Bench Press* welcomes your ideas, articles and criticisms. All rights are reserved to edit or reject any materials submitted for publication. Please direct your inquiries and news suggestions to:

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Administrator's Office  
State Capitol Building  
Des Moines, IA 50319  
Fax: (515) 242-0014

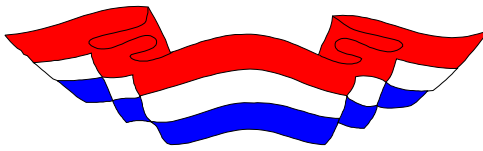
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Visit the Iowa Judicial Branch web site at:  
[www.judicial.state.ia.us](http://www.judicial.state.ia.us)

# Court Personnel Mourn Victims of Attacks, Show Support for Nation

Following the terrorists attack against the United States on September 11, Iowa court personnel rallied in support of our nation and paid tribute to the terrorists' victims.

According to Jane Wilson, Grundy Clerk of Court, her staff took time out September 15th for a time of silence to remember the victims and heroes of the attack. "Some of us attended church services over our lunch break," said Wilson. "Many of us are dressed in red, white and blue, and some of us have pins showing hands held together across America."



"Here in Chickasaw we each have a small flag at our desk, a paper flag on our door, and a patriotic arrangement on the public counter," said Clerk of Court Damian Baltes.

Many employees are reaching into their pockets to help victims of the attack. "Employees in our office have been collecting money for the Red Cross, said Sharon Modracek, Linn County Clerk of Court. "One employee and her sister made red, white and blue ribbon lapel pins, which they are selling to raise money for the Red Cross. Many employees have purchased them." Modracek added that another employee decorated the office with flags, and red, white and blue decorations.

In Dubuque County, the court administrator's office distributed lapel flag pins to judges, lawyers, staff, and others. They also have flags on their desks, in the windows, on the doors, and on the wall. Ruth Esser-Recker said, "I'm sure that we'll keep the spirit of patriotism alive in other ways in the future."

Beth Baldwin, District Court Administrator for the Fifth District reported, "Courthouse staff are wearing red, white and blue (or blue) ribbons, and the flag is at half mast. Many people attended the ceremony at Nollen Plaza." Baldwin added that one employee sent around an e-mail with detailed information about donating blood at the blood bank.

"We observed a moment of silence on Friday noon. U.S. flags are now the decoration of choice throughout the office," noted Clay Gavin, Clerk of Court in Dubuque County.

Lodema Berkley, Clerk of Court in Johnson County, and her staff hung flags, and red, white and blue decorations in their office.

Cheryl Thrailkill, Associate Editor of the Bench Press, made blue ribbon lapel pins for her and other court employees, and displayed patriotic decorations in her workspace.

The clerk of court office in Allamakee County is decorated with a red, white, and blue bunting normally reserved for the 4<sup>th</sup> of July. In addition, each workstation has a small U.S. flag on display and patriotic 'window clings' adorn the office door and the door of the judge's chambers.

Carl Christianson, Clerk of Court for Allamakee County, who fought in the Vietnam War, and later, served in the Philippines during the Gulf War, said, "I'm shaking out the wrinkles in my uniform in hopes they will call me for help somewhere." He added, "I guess we no longer live in America, it has to live in us."

# Flag Etiquette

**T**he Flag Code, which formalizes and unifies the traditional ways in which we give respect to the flag, also contains specific instructions on how the flag is not to be used:

- The flag should not be used as a drapery, or for covering a speaker's desk, draping a platform, or for any decoration in general. Bunting of blue, white and red stripes is available for these purposes. The blue stripe of the bunting should be on the top.
- The flag should never be used for any advertising purpose. It should not be embroidered, printed or otherwise impressed on such articles as cushions, handkerchiefs, napkins, boxes, or anything intended to be discarded after temporary use.

## Displaying the Flag Outdoors

When the flag is displayed from a staff projecting from a window, balcony or a building, the union (blue field with stars) should be at the peak of the staff unless the flag is at half staff.

When the flag is displayed over a street, it should be hung vertically, with the union

to the north or east. If the flag is suspended over a sidewalk, the flag's union should be farthest from the building.

## Raising and Lowering the Flag

The flag should be raised briskly and lowered slowly and ceremoniously. Ordinarily it should be displayed only between sunrise and sunset. It should be

illuminated if displayed at night. The flag of the United States is saluted as it is hoisted and lowered.

## Displaying the Flag Indoors

When on display, the flag is accorded the place of honor, always positioned to its own right. Place it to the right of the speaker or staging area or sanctuary. Other flags should be to the left.

## The Flag in Mourning

To place the flag at half staff, hoist it to the peak for an instant and lower it to a position half way between the top and bottom of the staff. The flag is to be raised again to the peak for a moment before it is lowered.

The flag is to be flown at half staff in mourning for designated, principal government leaders and upon presidential or gubernatorial order.

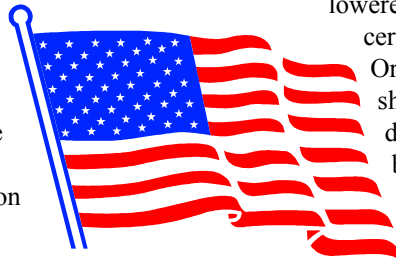
A recent Google search on the Internet for "flag etiquette" revealed over 32,000 sites where you can read more about our flag's history and etiquette.

"Flag Etiquette", Sept. 28, 2001

[[www.findarticles.com](http://www.findarticles.com)]

"Did You Know?", Sept. 28, 2001

[[www.baucus.senate.gov/etiquette](http://www.baucus.senate.gov/etiquette)]



# Governor Announces More Budget Cuts

On October 11, Governor Vilsack announced 4.3% across the board cuts to address a \$158 million shortfall in state revenues. The Governor also said that he would call a special legislative session within thirty days.

This is the latest in a series of moves designed to head off a snowballing deficit. Most agencies and departments began the fiscal year in July with reduced budgets. In September, Governor Vilsack directed certain state agencies to reduce their spending by an additional 7% to save \$108 million.

Among those exempted from the 7% cuts were the department of public safety, the department of public defense, indigent defense, the school for the blind, state aid for teacher compensation and Medicaid.

The selected cuts were especially hard on the regents, the community colleges, and the department of corrections, and legislative leaders argued in favor of across the board cuts.

The across the board cuts will save the state \$200 million, providing a cushion should revenues drop more.

The revenue outlook for FY 2003 is just as bleak. The Governor has called for \$200 million in budget reductions for the next fiscal year in anticipation of a continued downturn in state revenues. He has directed agencies to look for ways to “consolidate programs, streamline administration, or eliminate operations to achieve...substantial General Fund savings beginning July 1, 2002.”

Meanwhile, the Iowa Judicial Branch continues to operate on what court officials refer to as a “bare bones/status quo” budget. Many of the budget cuts implemented last year are still in place. More stringent measures will be necessary,

however, if the Legislature de-appropriates money from the courts.

“We’re monitoring the situation very closely. We plan to meet with legislative

leadership this week to discuss the budget,” said Chief Justice Lavorato. “At this point, I won’t dismiss the possibility of a de-appropriation, and more cuts for fiscal year 2003. We must be prepared for this contingency.”

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***“At this point, I won’t dismiss the possibility of a de-appropriation, and more cuts for fiscal year 2003. We must be prepared for this contingency.”***

***Chief Justice Lavorato***

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## Court Revenue to State Drops 3% in FY 2001

Court generated revenue directed to the state was 3% lower in FY 2001 compared to FY 2000, suggesting that the collection of court fines and fees is not immune from the downturn in the economy. The state's slow economy has been blamed for the lowest revenue growth in twenty years.

"I don't remember ever having a decrease in court generated revenue," said Peggy Sullivan, Director of Finance and Personnel for the Iowa Judicial Branch. "The slow economy and fewer court filings are probably the two main reasons for the drop in revenue."

In calendar year 2000, indictable criminal filings decreased 11%; dispositions were

down 4%. Simple misdemeanor filings dropped 5%.

A breakdown of court receipts shows that collections of fines, forfeited bail, and infractions decreased 8% in FY 2001, while the criminal penalty surcharge was 4% lower.

Filings of scheduled violations, which accounts for a significant portion of fines collections, were 2% higher in calendar year 2000.

Court officials are keeping an eye on court revenue because it directly affects the money available for court technology

projects. The Enhanced Court Collections Fund is tied to receipts from court fines and fees. The Judicial Branch keeps up to \$4 million of collections of fines and fees that exceed an annual target set by the revenue estimating conference. "I'm hopeful that we still meet our target," said Sullivan.

Court revenue directed to cities and counties did not fare as poorly, coming in at 1% above the previous year.

# Recent Iowa Criminal Decisions

By Ann E. Brenden



**Ann Brenden**, Assistant Attorney General, is the Editor of the *Iowa Criminal Law Handbook* (2d ed. 1994). Ann's synopses of the cases are also contained on the Iowa County Attorney Association's web site. They can be searched both chronologically and by subject at [www.iowa-icaa.com](http://www.iowa-icaa.com)

A complete list of summaries can be accessed by going to [http://www.iowa-icaa.com/Updates/Criminal/IOWA/September\\_2001.htm](http://www.iowa-icaa.com/Updates/Criminal/IOWA/September_2001.htm)

## July 2001

**State v. Allen**, \_\_\_ N.W.2d \_\_\_ (Sup. Ct. No. 00-0041) (Iowa 9/6/2001). **Drug delivery: "procuring agent defense" unavailable.** One who merely assists the buyer in obtaining drugs is not entitled to the "procuring agent defense", overruling *State v. Lott*, 255 N.W.2d 105 (Iowa 1977). That defense was based on the theory that one could not aid and abet a delivery when assisting only the recipient. Court now recognizes that the statute is intended to criminalize participation in drug deals, regardless of one's role as a buyer or seller. "Given this evident legislative intent, we agree with the State's claim that the procuring agent defense simply has no place in such a statutory scheme. We therefore reject the purely semantic analysis applied in *Lott*, and now overrule its holding that one who aids only the transferee of drugs cannot be found guilty of delivery."

**State v. Belken**, \_\_\_ N.W.2d \_\_\_ (Sup. Ct. No. 99-2001) (Iowa 9/6/2001). [1] **Rebuttal evidence—no abuse in allowing testimony not given in prior deposition.** The district court did not abuse its discretion in admitting rebuttal evidence that an investigating officer failed to disclose during a deposition (that the defendant's wife—who denied the statement during her own cross-examination at trial—had told another witness she was not sure whether her husband had committed the offense). "Belken's request to preclude testimony came from the investigating officer's failure to disclose information in a deposition, which Belken wrongly attempted to use as a discovery device to pin sanctions on the State. We also conclude Belken was not prejudiced by the evidence." [2] **Evidence—DNA.** Scientific director of a private forensic paternity and DNA testing laboratory in St. Louis, Missouri was qualified to testify as an expert on DNA

testing and results; State was not required to show expert's laboratory was certified in order to independently establish she was competent to apply and use the DNA technology; and witness was not obligated to explain the specific mathematical computations utilized during the DNA process. [3] **Merger.** The district court erred in entering judgment and sentence for both first-degree kidnapping and second-degree sexual abuse. "We merge the sexual abuse conviction, and vacate the judgment and sentence entered on that conviction."

**State v. Bergmann**, \_\_\_ N.W.2d \_\_\_ (Sup. Ct. No. 00-778) (Iowa 9/6/2001). [1] **Search and seizure—patdown of person and search of immediate area.** Police are allowed to pat down a suspect if they have reasonable suspicion that a crime is being or is about to be committed, or if there is a reasonable suspicion that the person is armed and the officer's safety is in jeopardy. The following factors justified a patdown of the suspect as well as the area under the seat in the vehicle he had been driving: "Bergmann was spotted in a known drug area alongside a nefarious drug dealer. When the drug dealer saw police, he immediately retreated from Bergmann's car, and Bergmann drove away quickly. [The officer] recognized Bergmann from a past weapon and drug arrest. [The officer] felt concern for his safety. Bergmann lied to [the officer] about where he had been recently. Bergmann acted nervous while outside the car. Given all of these factors, [the officer] had reasonable suspicion to pat down Bergmann for weapons. Moreover, once [the officer] concluded that further investigation was reasonably necessary, he was warranted to assure his protection by ensuring that those in his presence

*Continued on page 8*

*Continued from page 7*

were not armed.” [2] ***Detention and performance of canine sniff.*** A dog sniff of a car’s perimeter is not a search. However, “police cannot unduly prolong their detention of an individual to secure a drug dog or for any other reason without additional suspicion of wrongdoing that warrants expansion of the stop.” The few minutes required for the canine unit to reach the scene fell within the requirements that “the dog sniff be conducted within a reasonable amount of time from the initial, lawful stop and that the stop is not unduly prolonged without a sufficient basis.” [3] Probable cause based on results of dog sniff. “When the dog was alerted by smelling the presence of narcotics, this provided police with probable cause to search the vehicle.”

***State v. Campbell, \_\_\_ N.W.2d \_\_\_ (Sup. Ct. No. 00-1109) (Iowa 9/6/2001). Alcohol consumption by underaged person in the home.*** An adult under the age of 21 cannot act as his or her own guardian so as to fall within the exception allowing consumption of alcohol in private residences when a guardian consents to the underage person’s consumption of alcohol and is present.

***State v. Crawley, \_\_\_ N.W.2d \_\_\_ (Sup. Ct. No. 99-1643) (Iowa 9/6/2001). [1] Handwriting exemplar—disguised sample admissible for same purposes as refusal to give sample.*** Defendant’s provision of disguised handwriting in response to court order was admissible against him at trial as evidence of his consciousness of guilt, just as his total refusal to provide a handwriting exemplar would have been. [2] ***Admission of improper evidence cured.*** When the State elicited testimony regarding contempt proceedings, the trial court cured any error by admonishing the jury to disregard the reference to contempt. The same was true of the State’s introduction of evidence of a rash of burglaries in the city, by informing the jury that such evidence “was admitted

only to serve as background information.” [3] ***Evidence of defendant’s drug usage.*** Evidence of a defendant’s drug usage is admissible when it is not wholly independent of the offense for which defendant is being charged; here, serving as the defendant’s motive for the thefts.

***State v. Hoegh, \_\_\_ N.W.2d \_\_\_ (Sup. Ct. No. 00-1633) (Iowa 9/6/2001).***

***Appointment of special prosecutors by court as opposed to Board of Supervisors.*** Notwithstanding a recent amendment to section 331.754(1) transferring the statutory power of appointment of a prosecutor from the courts to the board of supervisors, the district courts still possess inherent authority to do so “when necessary for the administration of justice.” In the absence of such a showing, as here, the court errs in appointing a special prosecutor.

***State v. Johnson, \_\_\_ N.W.2d \_\_\_ (Sup. Ct. No. 99-940) (Iowa 9/6/2001). Defendant waives motion to suppress by failing to timely file it.*** Unless good cause for the lateness is shown, an untimely motion to suppress under the rules of criminal procedure waives the claims asserted. (Unpublished opinion, but see new amendment to Iowa R. App. P. 14(e) allowing citation to unpublished appellate opinions).

***State v. Legg, \_\_\_ N.W.2d \_\_\_ (Sup. Ct. No. 00-225) (Iowa 9/6/2001). [1] Garage—legitimate expectation of privacy.*** A garage is deemed part of the house’s curtilage in which the owner has a legitimate expectation of privacy as evidenced by the following facts: the garage is in very close proximity to the home, is attached to the residence, is included within an enclosure—the walls—surrounding the home, the door to which is closed, and is used as to store vehicles and other items incident to the use of the premises as a home. As such, a person has a legitimate expectation of privacy in an attached garage as part of the

property’s curtilage. [2] ***Warrantless search—exigent circumstances and probable cause.*** Warrantless entry of defendant’s garage were reasonable so as to be within the bounds of the 4th Amendment “probable cause and exigent circumstances” exception where the officer saw defendant’s vehicle run a stop sign, activated his lights, and chased defendant who then accelerated and ran another stop sign, weaving from curb to curb. Upon reaching her home, defendant exited her car and went inside the garage, ignoring the pursuing officer’s command to stop. The officer took three steps inside the garage in the process of stopping and speaking to defendant, then arrested her for OWI and interference with official acts. “Although Legg had a legitimate expectation of privacy in her garage, there were exigent circumstances and probable cause that justified Killpack’s minimal invasion of this privacy interest.”

***State v. Lopez, \_\_\_ N.W.2d \_\_\_ (Sup. Ct. No. 00-238) (Iowa 9/6/2001). [1] Counsel—substitute counsel.*** No abuse of discretion in denying request for substitute counsel where the court made adequate inquiry of the complaint, which yielded no information bearing on the question. [2] ***Vienna Convention warning—failure to give.*** Defendant determined not to be entitled to a new trial due to the State’s failure to notify him of his right to contact the Mexican consulate. Assuming without deciding that Article 36 of the Vienna Convention creates an individually enforceable right of notification and that the arresting officers knew Lopez was a Mexican national yet failed to advise him of his right to contact the Mexican consulate, the court concludes that defendant failed to show



*Continued on page 9*



*Continued from page 8*



prejudice. “He did not and is unable to show that contacting the consulate would have resulted in assistance in arranging for alternate legal counsel or in accepting a plea agreement. We need not determine whether the violation had an effect on the trial.”

*State v. Mitchell*, \_\_\_ N.W.2d \_\_\_ (Sup. Ct. No. 99-660) (Iowa 9/6/2001). **404(b) evidence—sexual acts toward other children.** The district court abused its discretion in admitting other children’s testimony (bearing on severed charges) concerning defendant’s prior bad acts. Such testimony went only to defendant’s propensity to abuse young girls. “Any other result would cause exclusion of prior-bad-acts evidence under Iowa Rule of Evidence 404(b) to become the exception rather than the rule.” Dissent by Neuman and Ternus, JJ.

*State v. Ramirez*, \_\_\_ N.W.2d \_\_\_ (Sup. Ct. No. 00-393) (Iowa 9/6/2001). **Guilty pleas—deportation still considered a collateral consequence.** Deportation is a collateral consequence about which the court is not required to advise the defendant at guilty plea. However, it “would . . . be proper and probably desirable for the court to advise a defendant of such matters.” Likewise, the possibility of deportation remains a collateral consequence for purposes of determining the effectiveness of defense counsel’s representation, although “foreign-national defendants should be apprised of all applicable federal laws, especially federal deportation consequences of state guilty pleas.”

*State v. Royer*, \_\_\_ N.W.2d \_\_\_ (Sup. Ct. No. 00-903) (Iowa 9/6/2001). **Drugs—manufacture charge.** In order to establish a violation of section 124.401(1)(b)(7), the State must show that the manufacturing process actually yielded five grams or

more of methamphetamine or any compound, mixture, or preparation that contains any quantity or detectable amount of methamphetamine. The State may aggregate any manufactured substance falling under either or both of these alternatives, but it is not sufficient for the State to rely on the potential yield of methamphetamine that might have been obtained from the ingredients found in the defendant’s home and car. (Distinguishing this case from that in *State v. Casady*, 597 N.W.2d 801, 807 (Iowa 1999, a conspiracy case)).

*Taylor v. State*, \_\_\_ N.W.2d \_\_\_ (Sup. Ct. No. 99-1285) (Iowa 9/6/2001). **[1] Recusal did not constitute abuse of discretion.**

While trial courts should provide factual basis on the record for recusing themselves, the appellate court has never found—and does not here—an abuse of discretion in recusal. **[2] Remedy: recusal of judge to whom case is transferred during appeal for ruling on 179(b) motion.** Postconviction petitioner is not entitled to a new trial when original judge recuses himself from consideration of 179(b) motion upon transfer back to district court during appeal. “As a matter of public policy, when a Rule 179(b) motion is pending, but the presiding judge recuses himself, it is the new judge who has the authority under Iowa Rule of Civil Procedure 367(a) to decide if a new trial is required.”

# Iowa Court Reporters Install New Officers, Present Award to Weingart

By Sheila Lasley Hall and Karen Hill

**T**he Iowa Court Reporters Association recognized M. Jane Weingart as its Distinguished Service Award recipient for 2001. The Association presented the award to Weingart, and installed new officers, at its annual meeting, which was held on June 22-23, 2001, at the Collins Plaza Hotel in Cedar Rapids.

Weingart began her career as an official court reporter in 1973 in the Eighth Judicial District. Since 1988, she has operated her freelance firm, MJW Court Reporting Services, Burlington, Iowa. Weingart has been active in the court reporting profession, serving on both state and national boards and committees. Currently, she is chair-elect of the Board of Trustees of the American College of Business (formerly A.I.B.).

The Association also installed its new officers. Jane Fitzgerald, an official reporter from Boone, Iowa, was installed as the president. Fitzgerald has been an active member of ICRA, serving in many capacities. She is also active in her church and community. During her one-year term as president, Fitzgerald will focus on court reporters being information technologists. Recognizing the ever-changing profession of court reporting, Fitzgerald's goal will be working diligently to increase student enrollment.

Joining President Fitzgerald on the Executive Board are Jody Malloy, Boone, President-Elect; Brenda Ellefson, Marshalltown, Vice-President; Marty Thompson, West Des Moines, Treasurer; Linda Dona, Oelwein, Secretary; and Teresa Kordick, Past President. The freelance directors are Kelli Mulcahy, Des Moines, and Sue Ann Jones, Ankeny. The official directors are Sheila Lasley Hall, Bettendorf, and Karen Hill, Des Moines.

Karen Teig and Kellee Cortez, along with many volunteers, spent many hours making this an outstanding continuing education seminar. The program included a drug-detection dog, a motivational speaker, a demonstration of voice-recognition software, and other informative presentations.

Cindy Burke spoke to reporters on her experience as a sexual abuse therapist in the state. Her presentation discussed the myths, misconceptions, trauma and treatment of a victim or sexual abuser.

ICRA was fortunate to have two National Court Reporter Association representatives in attendance. Duane Smith entertained and enlightened reporters on the shortage of court reporters and captioners. Mary Jones was present throughout the seminar and had the official duty of installing officers.

Bruce Fagerstrom, WahlTek, Inc., demonstrated voice recognition software. His presentation only strengthened the court reporter's position in the courtroom or deposition. Many questions were generated, many left unanswered.

Officers from the Cedar Rapids Police Department, Phil Hansen and Dan Jabens, as well as K9 dog, Djarko, demonstrated the dog's training and detection of street drugs.

Carol Bos, J.D. Grand Rapids, Michigan, kept everyone inspired with her motivational, comedic routine. Carol knows the court reporting profession and related it to what reporters do day in and day out.



*ICRA President Jane Fitzgerald (left) and NCRA Board Member Mary Jones*

## New Faces

Supreme Court: **Diane Puthoff**, *Des Moines*, Law Clerk; **Summer Wood**, *Des Moines*, Administrative Secretary-Clerk's office.

Court of Appeals: **Keeley Cain**, *Des Moines*, Law Clerk.

ICIS: **Cristal Ewald**, *Des Moines*, Senior System Administrator.

District 1: **Hilary Hurt**, *Dubuque*, **Nathan Lein**, *Waterloo*, Law Clerks;

**Angela Schradt**, *Waterloo*, Juvenile Court Specialist.

District 2: **Jonathan Beaty**, *Ft. Dodge*, Law Clerk; **Andrea Miller**, *Hampton*, **Kurt Stoebe**, *Dakota City*, Magistrates; **Linda Frank**, *Carroll*, Clerk of Court.

District 3: **Dennis Dyke**, *Spencer*, Law Clerk; **R. Patrick Eich**, *Denison*, **Ryan Kolpin**, *Cherokee*, Magistrates.

District 4: **Jean Sorich**, *Council Bluffs*, Law Clerk; **Andrea Heilig**, *Council Bluffs*,

Accountant/Auditor.

District 5: **Gera Hutchinson**, *Des Moines*, **Kristin Knudtson**, *Des Moines*, **Steven Ponzeline**, *Des Moines*, **Christine Schwartz**, *Des Moines*, **Mary Ann Stull**, *Knoxville*, **Jeanne Nicholson**, *Bedford/Corning*, **Jackie Saville**, *Bedford*, **Tammy Littleton**, *Des Moines*, Judicial Clerks.

District 6: **Mark Czarniecki**, *Iowa City*, **Charlotte Yager**, *Iowa City*, **Joan Coates**, *Iowa City*, **Mark Stimmel**, *Iowa City*, Judicial Clerks.

## Milestones: Service Anniversaries

### 25 Years

**Mary Thomas**, Judicial Clerk, *Wright County*.

**Alan Pearson**, Chief Judge-District 1, *Dubuque County*.

**Angela Pritchard**, Judicial Clerk, *Linn County*.

### 30 Years

**Karen Orwan**, Juvenile Court Technician, *Union County*.

**Kathleen Sallee**, Juvenile Court Officer, *Black Hawk County*.

### 35 Years

**Bert Aunan Jr.**, Chief Juvenile Court Officer, *Polk County*.

## Summer Bar Exam Results: 147 Pass

The bar exam was administered July 23-25 in Iowa City. The results of the exam reveal 147 of 173 test takers passed the exam, an 85% pass rate. While a majority of those taking the exam were from Drake or Iowa, 32 schools from various states were represented. Drake University of Iowa had the highest number of test takers, with 73, passing 64. Forty-two out of forty-nine University of Iowa students passed the exam, and thirteen of sixteen Creighton students passed.

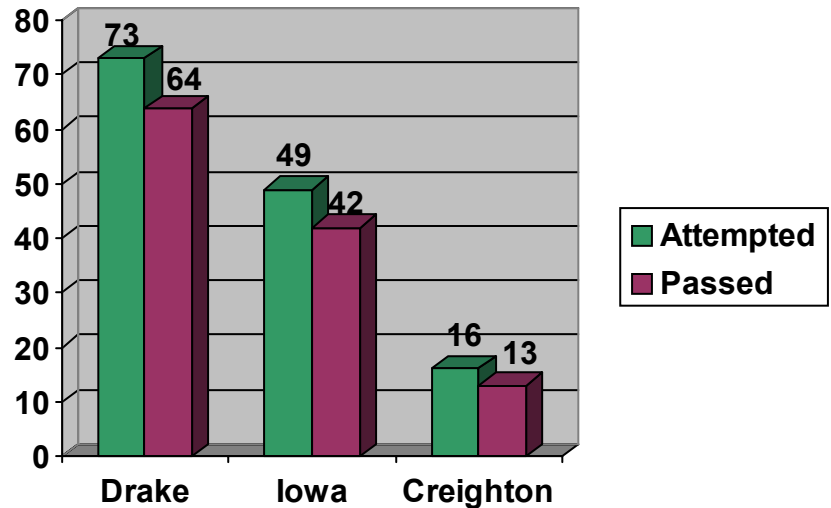
Seven of eleven who were taking the bar for the second time passed and four of four who were taking the test for the third time were successful.

"By and large I thought the bar exam was more straightforward than what I anticipated. I was surprised to find the essays to be the hardest section of the test. Prior to the exam, I thought answering the multistate questions was going to be the most difficult," said a recent Drake law school graduate. "Some of the essays seemed to test relatively obscure areas of the law.

However, I was pleased that the outlines we were given during bar review covered even more of the obscure topics in enough detail that enabled me to write on these essays. I truly believe passing the bar examination was directly related to the quantity and quality of time spent studying these outlines."

Another test-taker was very surprised by the length of the Multistate Bar exam questions. Because they had prepared with significantly longer practice questions, the time pressure during the actual exam wasn't as great as expected.

Congratulations to all who were successful.





# Spotlight



## A Room with a View



*Chief Justice Lavorato, Justice Neuman and Justice Streit pose in the supreme court courtroom of the new judicial branch building, which is currently under construction. In the background, one can see downtown Des Moines.*

## New Supreme Court Justice Michael J. Streit



*Governor Vilsack (left) administers oath of office to Michael J. Streit. Pictured on the right assisting with the robing, are his son, Ashton, and wife, Sonya.*

*Photos courtesy of Kathy Hoefing, guest of Justice Streit.*



# Spotlight



## Dome Awaits Home



*The dome structure for the new judicial building, which was built in a warehouse in Boone, sits on the construction site. Plans call for the 35-ton dome to be hoisted by a crane to the top of the rotunda. Eventually, the dome will be covered with copper, and the top center will contain a glass skylight.*

## 2001 CASA of the Year Award



*The Iowa CASA Foundation named Peg Hunter as the 2001 Iowa CASA volunteer. Former Chief Justice Arthur McGiverin presented the award to Hunter at the Juvenile Court conference in Des Moines last month.*

*Hunter has served as a CASA for eleven years and worked on six cases. Currently assigned to two cases, one involving two children and another involving four children. But Hunter's volunteer efforts don't end there. She has pitched in many times to help with CASA office work including answering the telephone, filing, copying, mailing and case processing. Hunter has also organized a CASA fund-raising campaign and CASA cookbook.*

# Court of Appeals Plans 25th Birthday Celebration

By Alison Werner Smith

**P**lans for the 25<sup>th</sup> Birthday Celebration of the Iowa Court of Appeals are proceeding. On November 1, 2001, at 3 p.m. in the Supreme Court Courtroom, the present and former judges and staff of the Iowa Court of Appeals will gather together to celebrate the 25<sup>th</sup> anniversary of the court.

All the former judges, law clerks and administrative staff at the court have been located and invited to join in this celebration. The celebration will feature appellate celebrities and speakers who will reminisce and share the history of the Court with those in attendance. The celebration will also feature a commemorative booklet recounting the history and operations of the Iowa Court of Appeals. All court personnel and judicial branch employees, as well as the Iowa Bar and community at large are invited to attend this event.

The debate over the need for an intermediate, appellate court began almost a hundred years before the court was actually created by the Iowa Legislature. When the Court of Appeals was created in 1976, a challenge to the legal validity of the judicial nominations to the new court set off a major legal battle that ultimately had to be decided by the Iowa Supreme Court. This story and many others will be recounted by the former and current judges on the Iowa Court of Appeals. Judge Robert G. Allbee, one of the original judges appointed to the Iowa Court of Appeals, plans to share his memories and experiences as a member of court.

The Court of Appeals has developed its own personality over the past twenty-five years, changing how cases are routed and how our state law is made. Over the years, the composition of the court has changed

in both number and representation. The celebration is an opportunity for the legal community to talk with the court and discuss the impact it has had on the law of the State of Iowa.

The future of the Court of Appeals is also of interest on its 25<sup>th</sup> birthday, what with the addition of a new judge and the upcoming move to the new judicial building. It is hoped that the birthday celebration will provide a meaningful forum for sharing memories and constructing a vision of the court's future!



*The original Court of Appeals was composed of (from left) Leo Oxberger, Allen (Barney) Donielson, Robert G. Allbee (chief judge), Bruce M. Snell, Jr., and James H. Carter.*

## Eisenhauer Appointed to Court of Appeals

**D**istrict Court Judge Larry Eisenhauer joined the Iowa Court of Appeals on October 8. Governor Tom Vilsack appointed Judge Eisenhauer to the court on September 24. Eisenhauer fills the vacancy created when Vilsack appointed Judge Michael Streit, formerly of the Court of Appeals, to the Iowa Supreme Court.

Judge Eisenhauer served as district court judge for five years in the Fifth Judicial District. Prior to that, he served eight years as a juvenile judge in Polk County.

Judge Eisenhauer, a graduate of Drake University Law School is active on several committees, including chair of the Supreme Court Advisory on Court Appointed Special Advocates, chair of the Supreme

Court Advisory committee on Juvenile Court offices, and co-chair of the Iowa Judges Association Legislative Committee.

Judge Eisenhauer is a member of the Polk County and Iowa State Bar Associations. He serves on the National Council of Juvenile and Family Court Judges. Judge Eisenhauer is married, has two children, and one grandchild.



*Judge Larry Eisenhauer*

## Court of Appeals to Hold Court in Sioux Center

**T**he Court of Appeals will hold court in Sioux Center on the campus of Dordt College on Tuesday, October 23. Appellate arguments will be heard in room S101 of the Science and Technology Center. The sessions are scheduled to begin at 10:00 and 1:30. The hearings are open to the public and the Court encourages people to attend.

Typically, a panel of three judges hears a case. The court divides into panels in order to manage its heavy caseload. The panel for the cases to be heard in Sioux Center is Chief Judge Sackett and Associate Judges Huitink and Hecht.

The court meets one week a month from September through June. Although the court generally hears cases in Des Moines at the State Capitol, on occasion it sits in other cities to enable more of the public to watch appellate arguments. In the past two years, the court has visited Pella, Ames, Cedar Falls, Council Bluffs, Burlington, Orange City, Clinton, Carroll, Okoboji and Decorah.